IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA ex rel.
CORI RIGSBY and KERRI RIGSBY — RELATORS/COUNTER-DEFENDANTS

v. — CASE NO. 1:06cv433-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY — DEFENDANT/COUNTER-PLAINTIFF

and

HAAG ENGINEERING CO. — DEFENDANT

STATE FARM'S SECOND NOTICE OF INTERVENING AUTHORITY REGARDING [738] RIGSBYS' MOTION FOR RECONSIDERATION OF SCOPE OF PROCEEDINGS IN LIGHT OF ADDITIONAL EVIDENCE ADDUCED IN DISCOVERY; [734] STATE FARM'S MOTION FOR SUMMARY JUDGMENT; AND [736] STATE FARM'S MOTION FOR SUMMARY JUDGMENT ON THE CLAIMS OF CORI RIGSBY

Defendant/Counter-Plaintiff State Farm Fire and Casualty Company ("State Farm"), hereby gives notice to the Court, the Clerk and to counsel, of the following additional intervening authority. State Farm would show:

1. On January 24, 2011, United States District Judge Sarah S. Vance issued her Order and Reasons, ([886] in *United States of America ex rel. Branch Consultants, L.L.C. v. Allstate Insurance Co., et. al.*; No. 06-4091 (E.D. La. Jan. 24, 2011)) ("Opinion"), ([873-1.)

2. On January 25, 2011, Judge Vance issued her Judgment dismissing the *Branch* case in its entirety ("Judgment"), ([873-2].)

3. On January 25, 2011, State Farm filed its [873] Notice of Intervening Authority, placing each of the above referenced documents into the record.

4. Yesterday, January 26, 2011, Judge Vance issued an Amended Judgment in *Branch*, ([888] in *United States of America ex rel. Branch Consultants, L.L.C. v. Allstate Insurance Co., et. al.*; No. 06-4091 (E.D. La. Jan. 24, 2011)) ("Amended Judgment"), Ex. A hereto.

5. Judge Vance's Amended Judgment is directly relevant to the following motions now pending before this Court:

(1) [738] Rigsbys' Motion for Reconsideration of Scope of Proceedings in Light of Additional Evidence Adduced in Discovery ([738], [740], [750], [765], [766] & [783]);

(2) [734] State Farm's Motion for Summary Judgment ([734], [735], [767], [780]); and

(3) [736] State Farm's Motion for Summary Judgment on the Claims of Cori Rigsby (736], [737], [763], [777]).

6. The only difference between Judge Vance's Judgment and Amended Judgment is the amendment of the following paragraph from the original Judgment:

> IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Branch's claims against American Reliable, Standard Fire, Colonial, Liberty Mutual, SIMSOL, ANPAC, Fidelity, and Pilot are DISMISSED WITH PREJUDICE because Branch is not an original source of those claims, a determination that is intertwined with the merits and that was decided on summary judgment.

([873-2] at 1.)

7. The above-quoted paragraph now reads as follows in the Amended Judgment:

> IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Branch's **loss-shifting** claims against American Reliable, Standard Fire, Colonial, Liberty Mutual, SIMSOL, ANPAC, Fidelity, and Pilot are DISMISSED WITH PREJUDICE because Branch is not an original source of those claims, a determination that is intertwined with the merits and that was decided on summary judgment.

(*Branch* [888] Amended Judgment), Ex. A hereto.

8. Judge Vance apparently made this amendment to conform the Judgment to her holding in her Opinion.

9. State Farm hereby files a copy of Judge Vance's Amended Judgment in the record and respectfully brings it to the Court's attention as authority relevant to the aforementioned motions.

This the 27th day of January, 2011.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

By: /s/ *E. Barney Robinson III* (MSB # 094sdu32)
E. Barney Robinson III (MSB # 09432)
Robert C. Galloway (MSB # 4388)
Jeffrey A. Walker (MSB # 6879)
Benjamin M. Watson (MSB # 100078)
Amanda B. Barbour (MSB # 99119)

ITS ATTORNEYS

OF COUNSEL:

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC
Post Office Drawer 4248
Gulfport, MS 39502
(P) (228) 575-3019
(E) bob.galloway@butlersnow.com

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC
200 Renaissance at Colony Park, Suite 1400
1020 Highland Colony Parkway (39157)
Post Office Box 6010
Ridgeland, MS 39158-6010
(P) (601) 948-5711
(F) (601) 985-4500
(E) jeff.walker@butlersnow.com
(E) barney.robinson@butlersnow.com
(E) ben.watson@butlersnow.com
(E) amanda.barbour@butlersnow.com

Michael B. Beers (ASB-4992-S80M), PHV
BEERS, ANDERSON, JACKSON, PATTY & FAWAL, P.C.
Post Office Box 1988
250 Commerce Street, Suite 100 (36104)
Montgomery, AL 36102
(P) (334) 834-5311
(F) (334) 834-5362
(E) mbeers@beersanderson.com

PRO HAC VICE

CERTIFICATE OF SERVICE

I, E. Barney Robinson III, one of the attorneys for State Farm Fire and Casualty Company, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to the following, via the means directed by the CM/ECF system:

C. Maison Heidelberg
Ginny Y. Kennedy
MAISON HEIDELBERG P.A.
795 Woodlands Parkway, Suite 220
Ridgeland, MS 39157
(P) (601) 351-3333
(F) (601) 956-2090
(E) maison@heidlebergpa.com

August J. Matteis, Jr.
Craig J. Litherland
Benjamin R. Davidson
GILBERT LLP
11 New York Avenue, NW
Suite 700
Washington, DC 20005
(E) matteisa@gotofirm.com
(E) litherlandc@gotofirm.com
(E) davidsonb@gotofirm.com

COUNSEL FOR CORI RIGSBY AND KERRI RIGSBY

Jeffrey S. Bucholtz
Joyce R. Branda
Patricia R. Davis
Jay D. Majors
UNITED STATES DEPARTMENT OF JUSTICE
Civil Division
P.O. Box 261
Ben Franklin Station
Washington, DC 20044
(P) (202) 307-0264
(F) (202) 514-0280

Alfred B. Jernigan, Jr.
Felicia C. Adams
UNITED STATES ATTORNEY'S OFFICE
Southern District of Mississippi
188 East Capitol Street, Suite 500
Jackson, MS 39201
(P) (601) 965-4480
(F) (601) 965-4409

ATTORNEYS FOR THE UNITED STATES

Larry G. Canada
Kathryn Breard Platt
GALLOWAY, JOHNSON, TOMPKINS, BURR & SMITH
2510 14th Street, Suite 910
Gulfport, MS 39501
lcanada@gjtbs.com
kplatt@gjtbs.com

ATTORNEYS FOR HAAG ENGINEERING CO.

This the 27th day of January, 2011.

/s/ E. Barney Robinson III (MSB # 09432)
E. Barney Robinson III (MSB # 09432)

Jackson 6043135v1